

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (SMC), KOLKATA
[Before Shri P.M. Jagtap, Vice President]**

I.T.A. No. 1828/Kol/2018
Assessment Year: 2014-15

Sunag Engineering Pvt. Ltd.Appellant
9th Floor, Sukhsagar Apartments,
2/5, Sarat Bose Road,
Kolkata – 700 020.
[PAN: AA ECS 6105 M]

ITO Ward 1(2) Kolkata.....Respondent
P-7, Chowringhee Square,
Kolkata – 700 069.

Appearances by:

Shri Manish Tiwari, FCA appearing on behalf of the Assessee.

Shri Baijnath Singh, Addl. CIT appearing on behalf of the Revenue.

Date of concluding the hearing : December 17, 2018

Date of pronouncing the order : December 19, 2018

ORDER

Per P.M. Jagtap, Vice President

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 1 Kolkata dated 21.06.2018 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present is a company which is engaged in the business of dealing in machinery & project engineering jobs. The return of income for the year under consideration was filed by it on 05.09.2015 declaring a total income at nil. In the assessment completed u/s 143(3) vide an order dated 07.12.2016, the total income of the assessee was determined by the AO at Rs. 12,66,038/- after making the following additions:

| | |
|---|-----------------|
| 1. Disallowance of donation u/s 35(1)(ii) | Rs. 12,25,000/- |
| 2. Disallowance u/s 14A | Rs. 3,844/- |
| 3. Disallowance of deduction u/s 80G | Rs. 60,809/- |

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Ld. CIT(A) dismissed the appeal of the assessee vide his appellate order dated 21.06.2018 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. As pointed out by the learned counsel for the assessee from the relevant portion of the impugned order of the Ld. CIT(A), the appeal of the assessee was fixed by the Ld. CIT(A) for hearing only on 3 different dates falling within a period of 15 days. As submitted by him, out of the said 3 occasions, the assessee sought adjournment on 5th June, 2018 and 12th June, 2018 while none appeared on behalf the assessee on third hearing fixed on 20.06.2018 as the authorised representative of the assessee reached the office of the Ld. CIT(A) a little late. He has contended that the Ld. CIT(A) however did not give any more opportunity to the assessee and proceeded to dismiss the appeal of the assessee vide his impugned order passed ex-parte. Keeping in view these submissions made by the learned counsel for the assessee, I find that the appeal of the assessee has been dismissed by the Ld. CIT(A) vide his impugned order passed ex-parte without giving proper and sufficient opportunity of being heard and there is a clear violation of principle of natural justice. Even the learned DR has not been able to dispute this position which is clearly evident from the impugned order of the Ld. CIT(A). I, therefore, set aside the ex-parte order passed by the Ld. CIT(A) and remit the matter back to him for

disposing of the appeal of the assessee afresh on merit after giving proper and sufficient opportunity of being heard to the assessee.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 19th December, 2018.

Sd/-
(P.M. Jagtap)
VICE PRESIDENT

Dated: 19/12/2018

Biswajit, Sr. PS

Copy of order forwarded to:

1. Sunag Engineering Pvt. Ltd., 9th Floor, Sukhsagar Apartments, 2/5, Sarat Bose Road, Kolkata – 700 020.
2. ITO Ward 1(2), P-7, Chowringhee Square, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata